Draft - 1 February 1956

Mr. Roger W. Jones
Assistant Director for
Legislative Reference
Bureau of the Budget
Washington 25, D. C.

Dear Mr. Jones:

I refer to your letter of 7 December 1955, requesting the views of this Agency with respect to a draft bill entitled "Foreign Employees Personnel Act of 1956".

The Central Intelligence Agency is in accord with the objectives of this proposed legislation, and is very much interested in its progress and ultimate disposition. As you are aware, This Agency employs a considerable number of foreign nationals, at home and abroad.

A Matter of major concern which we have noted in this proposed bill is its possible relationship to the current legislative provisions under which this Agency operates. Specifically, we are concerned with the repeal provision, Section 18, which would modify to conform with the proposed bills all laws or parts of laws inconsistent with it. Such a provision could be construed to modify the broad authority granted to the Director of Central Intelligence by the CIA Act of 1949 (P. L. 110, 81st Congress), and although through invocation of the Director's special authorities, such as his duty to protect intelligence sources and methods, the Agency might avoid the undesirable effect of this section, it would be preferable to have a specific exemption written into the Act. The addition of language similar to that used for this purpose in the Federal Property and Administrative Services Act of 1949 (P. L. 152, 81st Congress) is recommended. Section 502(d)(17) of that Act states that:

"Nothing in this Act shall impair or affect any authority of the Central Intelligence Agency."

It is impossible to deal in this memorandum with the specific examples of situations in which such an exemption might have to be applied. The nature of the employment relationships with foreign nationals who work for this Agency is varied according to a number of different types of situations with which we must deal. In addition to the obvious security problems with which we are faced, certain provisions of this proposed bill requiring reports, the availability of statistics on local employment standards in certain foreign areas, etc., would create serious administrative problems in attempting to comply with certain provisions of this Act. Although the Agency would attempt to comply with the letter and spirit of this legislation wherever practicable, we feel that the exemptive provisions recommended above is essential in view of the unique nature of our operations.

In the event that further detail is desired in support of our recommendation for the above provision, we will be happy to supply such detail at your convenience. In the event that our proposal for an exemption is acceptable to the Executive Branch, we will continue to have a distinct interest in the disposition of the specific provisions of this proposed bill, and in any regulations which are established for its implementation following its passage by the Congress.

In addition to the above comments, we offer specific comments on particular sections of the bill as follows:

Section 4(b). Presumably the term "locally employed" means employed in the same country in which the employee holds citizenship or of which he is a native or permanent resident. This is not entirely clear,

however, in the wording of the section. It is also noted that the application of this to "expatriates" and persons having dual citizenship might present difficult administrative situations. It is our impression that there is no commonly accepted definition of the word "expatriate".

Section 4(c). We can foresee possible political implications of the requirement set forth in this section. Considering the liberal proviso in the second section allowing waiver of this requirement, we suggest that it might be preferable to delete the section entirely. This is a matter on which the Department of State will undoubtedly have more definitive views.

Section 5. It is not made clear whether the term "public interest" in the first sentence refers to the United States or to local public interest. We assume the former, but suggest that some clarification of language may be desirable.

Section 5(i). We would suggest the desirability of adding the words "or as part of compensation" just before the phrase "without regard to the actual costs". We can foresee situations in which it might be administratively desirable to include sums for lodging and meals in computing the compensation of employees.

Section 11(b). This section appears somewhat restrictive in that it would apply a special schedule of retirement benefits to all non-U.S. citizen employees. Very frequently foreign employees who reside in the United States, and are accustomed to United States living standards, are employed by Federal agencies, and it would seem equitable that such employees should be entitled to retirement benefits according to U. S. standards. It is therefore suggested that such a special and probably reduced schedule of retirement benefits should be applicable only to non-resident alien employees.

Section 13(b). We believe that this section, although desirable, might tend to cause embarrassment unless similar authorities are provided for treatment and transportation of United States citizens, as we are proposing in our own career legislation. Altough as a technical legal matter, the words "on a basis comparable to that under which such care is provided for U. S. citizen employees and their dependents" would provide protection against inequities in this regard, the existence of this language in a statute, unless accompanied by similar language in statutes applicable to U. S. citizens/and their dependents, might cause considerable embarrassment to the Government.

employees

We note that this bill makes no provision for educational allowances for foreign employees who are located in foreign countries other than their countries of residence or recruitment. It is suggested that consideration be given to extending this bill to provide such benefits to this category of local employees.